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STATEMENT OF INTEREST OF THE STATE OF DELAWARE.

The interest of the State of Delaware in the Appeal of the Welfare Commissioner of Connecticut in the instant case is the fact that Delaware by statute has imposed a one-year residency requirement on persons coming into the State as a prerequisite to eligibility for public assistance grants under, *inter alia,* the Old Age Assistance, Aid and Services to Needy Families with Children, Aid to the Disabled, and General Assistance programs. 31 *Del. C.* § 504.

The District Court for the District of Delaware, by Opinion issued June 28, 1967, and Order entered June 29, 1967, held the Delaware one-year residency requirement for public assistance invalid as in violation of the equal protection clause of the Fourteenth Amendment. *Green v. Department of Public Welfare,* 270 F. Supp. 173 (D. C. Del., 1967).

The Argument of the State of Delaware as Amicus Curiae in support of Appellant in the case at bar will be devoted to the constitutional grounds on which the Connecticut and Delaware District Courts invalidated, respectively, the Connecticut and Delaware one-year residency requirement for public assistance.

ARGUMENT.

I. A State's Residency Requirement for Public Assistance Is Not in Violation of the Privileges and Immunities Clause of the Fourteenth Amendment of the United States Constitution.

The privileges and immunities clause of the Fourteenth Amendment protects those interests growing out of the relationship between the citizen and the national government. *Slaughter-House Cases,* 16 Wall. 36 (1873); *Twining v.* New Jersey, 211 U. S. 78 (1908); *Hague v. C. I. O.,* 307 U. S. 496 (1939).

This Court has never held that receipt of public assistance from a State is a privilege of national citizenship.

Numerous State statutes which affect freedom of egress and ingress among the States have been specifically upheld by this Court as not in violation of the privileges and immunities clause of the Fourteenth Amendment. A few examples are typified in the following cases:

1. A statute taxing the business of hiring persons to labor outside the State. *Williams v. Fears,* 179 U. S. 270 (1900).

2. A statute restricting employment under public works of the State to citizens of the United States, with a preference to citizens of the State. *Heim v. McCall,* 239 U. S. 175 (1915); *Crane v. New York,* 239 U. S. 195 (1915).

3. A statute requiring persons coming into a State to make a declaration of intention to become citizens and residents thereof before being permitted to register as voters. *Pope v. Williams,* 193 U. S. 621 (1904).

See also *Drueding v. Devlin,* 234 F. Supp. 721 (D. C. Md., 1964), aff'd. *per curiam* 380 U. S. 125 (1965).

4. A statute taxing deposits in banks outside a State at rates higher than deposits in banks within the State. *Madden v. Kentucky,* 309 U. S. 83 (1940).

5. The right to become a candidate for State office is a privilege of State citizenship, not national citizenship. *Snowden v. Hughes,* 321 U. S. 1 (1944).

It is submitted that the right of interstate travel is impeded no more by a residency requirement for welfare eligibility than by the restrictions set forth in the statutes involved in the above cases.

II. A State's Residency Requirement for Public Assistance Is Not in Violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

The equal protection clause has been called the "usual last refuge of constitutional arguments." *Buck v. Bell,* 274 U. S. 200, 208 (1927). Few police regulations have been held unconstitutional on the ground that they deny equal protection of the laws, except where discrimination on the basis of race or nationality is shown.

In *Drueding v. Devlin,* 234 F. Supp. 721 (D. C. Md. 1964), aff'd. per curiam 380 U. S. 125 (1965), this Court affirmed the decision of the United States District Court for the District of Maryland, which had upheld the Maryland statute requiring one year's residency in the State for eligibility to vote in national elections against, *inter alia,* an equal protection argument. A person's right to vote is constitutionally no less important to the national or state welfare than the privilege of a person to receive the patrimony of a State's public assistance.

The Fourteenth Amendment permits States a wide scope of discretion in enacting laws which affect some groups of citizens differently from others. The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective. *McGowan v. Maryland,* 366 U. S. 420 (1961).

The residency requirement for welfare eligibility of persons coming into a State is the basis of a reasonable classification directly related to achievement of the State's objective in imposing the requirement. The purposes of the classification resulting from a one-year residency requirement for welfare eligibility are similar to those stated by the Court of Appeals of Maryland and reiterated by the District Court in *Drueding v. Devlin, supra,* regarding the one-year residency requirement for voting, i.e., (1) identifying the voter and as a protection against fraud, and (2) to insure that the voter will become in fact a member of the community. The District Court in *Drueding,* affirmed per curiam by this Court, stated that although it was their personal opinion that one year was too long the court could not substitute its personal views for those of the Maryland Legislature in the absence of unreasonable discrimination.

III. In the Event This Court Finds Unconstitutional a State's Residency Requirement for Public Assistance, the Invalidity of a Residency Requirement Should Extend Only to Federal Funds Utilized for Public Assistance.

Even if this Court holds that a State's residency requirement for public assistance is invalid as in violation of the privileges and immunities clause or the equal protection clause of the Fourteenth Amendment or on some other constitutional ground, it is submitted that the Court should

limit such a decision by ruling that a residency requirement may not be applied to the extent that Federal funds are utilized by a State for public assistance grants under the Federal Social Security Act. 42 *U. S. C.* §§ 301 *et seq.* At a minimum, the Court should uphold the residency requirement to the extent that State funds are utilized for public assistance grants. See *Everson v. Board of Education*, 330 U. S. 1 (1947).

CONCLUSION.

It is respectfully submitted, for the reasons discussed above, that a State's one-year residency requirement for public assistance should be sustained, or in the alternative that the residency requirement should be sustained to the extent that State funds are utilized for public assistance grants.

Respectfully submitted,

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